

2018

TOWN OF FAIRHAVEN SHELLFISH REGULATIONS

PLEASE READ THIS DOCUMENT

**IT IS YOUR
RESPONSIBILITY
TO KNOW THE RULES
AND REGULATIONS
GOVERNING OUR
SHELLFISHERY**

SHELLFISH CONSTABLE

OFFICE# 508-979-4023 Ext. 124

For Bookkeeping reasons, no licenses will be sold after December 31, of each year

F E E S S H E L L F I S H P E R M I T S

(PERMITS ARE FROM APRIL 1ST – MARCH 31ST OF EACH YEAR)

RESIDENTIAL/NON-COMMERCIAL	\$30.00
RESIDENT/SENIOR CITIZEN (62Yrs. & up)	NO CHARGE
*COMMERCIAL/RESIDENT	\$260.00
*STUDENT COMMERCIAL	\$125.00
NON-RESIDENT/NON-COMMERCIAL	\$135.00
DREDGE BOAT LICENSE	\$425.00

***NOTE: ALL COMMERCIAL/RESIDENT MUST SHOW A SELLER'S CARD (BED CERTIFICATE) PRIOR TO ISSUE OF A COMMERCIAL SHELLFISH LIC. (DREDGE BOAT LIC. INCLUDED)**

***NOTE: STUDENT COMM. LIC. MUST SHOW PROOF OF RESIDENCY AND THAT THEY ARE A STUDENT (AGES ARE FROM 15YRS. – 18 YRS.) IN EFFECT JUNE 1ST – SEPT. 30TH OF EACH YEAR.**

PROOF OF RESIDENCY:

- YOU ARE LISTED IN STREET LIST**
- DRIVER'S LICENSE WITH FHVN. ADDRESS**
- IF PROPERTY OWNER NEED SLIP FROM ASSESSOR'S OFFICE**
- COPY OF UTILITY BILL SHOWING YOUR NAME AND FHVN. ADDRESS**

IF YOU DO NOT HAVE THE ABOVE 3 REQUIREMENTS, NO SHELLFISH PERMIT OR LICENSE WILL BE ISSUED.

THANK YOU

SHELLFISH REGULATIONS

AUTHORITY: the following rules and regulations are hereby adopted by authority of Massachusetts general laws chapter 130, section 52 by the Board of Selectmen, Town of Fairhaven. Under the above authority all persons are prohibited from taking eels, clams, quahogs, oysters, scallops, or seaworms from the coastal waters or flats of the Town of Fairhaven. Permits and licenses shall be limited to the regulations set forth here in.

NOTE: applies to all shellfishing regardless of type of permit or license. Commercial scallop regulations and special regulations covering temporary closings due to pollution, planting, or experimental programs may be established as needed.

RAIN SCHEDULE:

Any area designated as a rain area as described on maps attached to Town of Fairhaven Shellfish Regulations are open only when a **"yellow flag"** is displayed at two locations. The first location is **Baxter Ave.** off Sconticut Neck Rd. and governs the west side of the Sconticut Neck rain areas. The second is displayed at **Knollmere Beach** at the end of Weeden Rd.

When flags are displayed as red (or no flag at all) all shell fishing is prohibited in the rain areas as shown on the map.

Rainfall amounts in excess of .3 inches will cause rain areas to be closed and a red flag displayed. Once red flags are displayed they will fly for 5 consecutive days and then taken down and changed to yellow. If during the 5 day period another rain even occurs and the rainfall is .3 inches or more of rain another 5 day period shall begin. Rainfall is measure at the Sewerage Treatment facility on Arsene St. between 7:15 AM and 7:45 AM daily if rain is detected.

Fairhaven will coordinate their rainfall amounts with the City of New Bedford between 7:15 AM and 7:45 AM on rain dates. If either community has .3 inches or more of rainfall the west side of Sconticut Neck will be closed per rain area regulation. If during the day rainfall is significant, flags may be changed if warranted. Shell Fishermen should watch for closures as it helps protect the public.

Due to coordination requirements flags will be changed by 8:00 AM per rain date regulations. It is also understood any Shell Fishermen fishing from a boat, including divers, shall not leave the dock before 8:00 AM. This regulation shall be enforced vigorously to ensure all are aware of the flag being displayed for that day.

Rain Schedules as described in the Town of Fairhaven may be superseded by the Commonwealth of Mass Marine Fisheries Div. if they deem it necessary they may close the entire or part of the shell fishery area in Fairhaven for a period they deem required.

NON-COMMERCIAL REGULATIONS:

AGE LIMIT: any person over the age of twelve (12) years may obtain a shellfish permit but no child under the age of twelve (12) years shall take shellfish, eels, or seaworms unless accompanied by an adult holding a permit in which case, said adult will be held responsible for all acts of said child.

BASKETS: while engaged in shellfishing all shellfish must be stored in baskets. No basket larger than one (1) peck shall be used for non-commercial shellfishing.

BAY SCALLOPS: Scallops may be harvested from November 1 to March 31 between the hours of 7am and 4pm, providing the air temperature is above 28 degrees Fahrenheit. Limit one (1) bushel per week. The harvesting of scallops from April 1 to October 31 is prohibited.

CLAMS: clams may be harvested the first seven (7) days of April, May, September, October, November, and December.

CLOSED AREAS: shellfish shall not be removed from any area closed by the Division of Marine Fisheries. Written permission shall be made available for inspection upon demand by any police officer, constable, or any other duly authorized officer or agent of the Board of Selectmen. Areas within the rotation system shall be closed from time to time to allow for propagation. Rotation areas will be clearly marked and information on closed areas may be obtained by contacting the Shellfish Constable or the Selectmen's office.

DRY DIGGING: The dry digging of shellfish is prohibited between and including December 8th to March 31.

EELS/SEA WORMS: May be harvested any day through the season. A recreational permit entitles the holder to set up three (3) eel traps for recreational use. Traps must be marked with permit number and the floats must also have the permit number affixed to it. The taking of eels less than six (6) inches is prohibited.

EXHIBIT FOR INSPECTION: all persons taking or carrying away or having in their possession, shellfish of any kind, in boat or container, shall exhibit such shellfish for inspection upon demand of any Shellfish Constable, Natural Resources Officer, Police Officer, or any other duly authorized officer or agent of the Board of Selectmen.

FINES:

- a) 1st offense: in (Posted Closed area) \$200.00 and or suspension of license.
- b) 1st offense: violation of any written shellfish regulation \$50.00 and or suspension of license for thirty (30) days
- c) 2nd offense: violation of any written shellfish regulation \$100.00 and or suspension of license for sixty (60) days
- d) 3rd offense: violation of any written shellfish regulation \$150.00 and or suspension of license for ninety (90) days

- e) In the event of a fourth offense, or a license holder shows total disregard for these rules and regulations, The Board of Selectmen may revoke and cancel the license or permit for a period of time not to exceed two (2) years.

LICENSE DISPLAY: Licenses must be in the possession of the license holders and in plain view on outer clothing or posted on boat or drivers' flag, in visible manner while engaged in shellfishing.

LICENSE/PERMIT RESTRICTIONS: no person holding a commercial license shall be granted a recreational permit and no person holding a recreational permit shall be granted a commercial license.

NON-TRANSFERABLE: permits are not transferable and may be suspended or revoked by the Board of Selectmen for any violation of the rules and regulations, MGL, Chapter 130, or amendments thereto and subject to rules and regulations of the Town of Fairhaven.

NORTH COVE: North Cove will now be split with the Western side restricted for exclusive use of recreational permit holder only. Commercial shellfishing on this side of cove is prohibited! Commercial Shellfishermen may use the Eastern part of North Cove, buoys set into the middle of the cove will set line, along with a sign set on marsh.

OYSTERS: oysters may be harvested from October 1st through March 31st

PERMIT, NON-RESIDENTS: This permit may be sold to any resident of the state, who can show to the satisfaction of the licensing authorities, that he or she is domiciled within the State of Massachusetts.

PERMIT, RECREATIONAL: Permits may be issued to a member of a family who proves to the satisfaction of the licensing authorities that he or she actually physically resides in, or owns, real estate having an assessed value in the Town of Fairhaven, such as summer residence.

PERMIT, SENIOR CITIZENS: This permit may be issued to those persons that have attained the age of sixty-two (62) and can show to the satisfaction of the licensing authorities that they are domiciled, or own taxable property in the Town of Fairhaven.

REQUIRED SHELLFISH CONTAINERS: Recreational, senior citizens, and non-resident permit holders shall be required to utilize a standard one (1) peck wire basket while taking quahogs, clams, or oysters. Only one (1) basket per permit holder is permitted. Limits one (1) peck per week. (fine-see below)

SCUBA DIVING: the taking of shellfish by use of scuba and snorkel equipment shall be limited to the following conditions: shellfish permits or license shall be displayed on a standard diver's flag in a visible manner. Shellfish may be harvested by hand only, and the use of any suction and or air tank device, for the purposes of disrupting the sea bottom to expose shellfish shall be prohibited. Divers flags shall be displayed on a boat or surface float, and shall extend a minimum

distance of three (3) feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed divers flag, while at or near the surface of the water.

SEED: all seed shellfish shall be broadcast back onto the area in which they were taken, all seed shellfish above the water line shall be covered before leaving an area and all holes filled.

SHELLFISH GAUGES: Gauges for quahog, clam, and oyster measurements shall be used at all times when engaged in shellfishing.

SHELLFISH SIZE LIMITS: quahogs must have one (1) inch hinge measured by gauge. Clams shall not be taken when they are less than two (2) inches in the longest diameter. Oysters shall not be taken when they are less than three (3) inches in diameter. Scallops shall not be taken unless that have a well defined annual growth ring. The taking or possession of seed shellfish is prohibited.

SHOVEL/SPADING FORK: the use of a shovel or spading fork for the harvesting of shellfish is prohibited.

SURRENDER: shellfish permits/licenses may be suspended and surrendered upon demand to Shellfish Constables, Natural Resource Officers, Police Officers, or any other duly authorized officer or agent of the Board of Selectmen. Any person required to surrender their permit/license, may, within forty-eight (48) hours of such surrender, appeal to the Board of Selectmen in writing for a hearing.

COMMERCIAL REGULATIONS:

COMMERCIAL LICENSES: may be sold to individuals who demonstrate to the satisfaction of the licensing authorities that the Town of Fairhaven is their permanent place of domicile. Commercial licenses shall be valid only for the period of time that the holder maintains a permanent place of domicile in the Town of Fairhaven. Licenses are valid from April 1 through March 31. A cap or limit of fifty (50) commercial licenses only, shall be issued. Catch reports must be submitted before license will be issued.

All commercial license holders must have a state seller's card and a catch report in hand, before license will be renewed. A state I.D. number will be recorded on all commercial applications.

1. Any person who holds a Commercial Shell Fishing license issued by the Town of Fairhaven, must seek permission to launch out of any location other than waters controlled by the Town of Fairhaven. Permission shall be attained by contacting the Shellfish Warden or Assistant via telephone or in person. Leaving a message on the phone is not acceptable. Leaving from any location that is not considered waters controlled by Fairhaven will be considered a violation subjecting the license holder to penalties as made available under the rules as approved by the Selectmen. Waters controlled by Fairhaven is described for the purpose of this rule as water extending up to 300 feet from the shores of Fairhaven, MA, Bristol County.

2. Commercial Shell Fishermen holding Dredge Boat licenses as issued by the Town of Fairhaven must land their catch at an approved Fairhaven site. Approved sites are Pease Park Boat Ramp, Sea View/Goulart Boat Ramp and Hoppy's Landing Boat Ramp. Other docking sites may be approved by the Shell Fish Warden. These may include private docks or marinas or the town wharf. Approval must be obtained in writing from the Shell Fish Warden.

Penalties:

Any commercially licensed Shell Fishermen holding a license issued by the Town of Fairhaven are subject to the following penalties. The Shellfish Warden as his/her discretion shall impose any of the following individually, combination or all as deemed appropriate.

1. Seize part or all of the catch returning it to the waters or disposing of it as the Shell Fish Warden deems appropriate.
2. Suspend the license of the violators as determined by the Shell Fish Warden or Assistant for a period of time up to the complete season.
3. Issue a fine as described in the rules and regulations for Shell Fishing in the Town of Fairhaven.
4. To do all of the above if deemed appropriate by the Shell Fish Warden or Assistant

All of the above penalties as described can be appealed in writing to the Board of Selectmen. Once a written complaint is received, the Board of Selectmen may take any action they deem appropriate.

Actions available are as follows:

1. Nothing other than place on file
2. Order the Shell Fish Warden to change or rescind any action taken against the license holder.
3. Order a hearing with the Violator of these rules and the Shell Fish Warden at which time it may be determined if any changes or modification in regards to action taken by the Shell Fish Warden may be warranted.

BAGS: For enforcement reasons, burlap bags are not acceptable, clear onion bags must be used for the transportation of shellfish through Fairhaven waters.

BASKETS: while engaged in shellfishing all shellfish must be stored in baskets. No basket larger than one (1) bushel shall be used while engaged in commercial shellfishing.

CATCH REPORTS: A copy of a commercial license holders Massachusetts catch report must be submitted to the Selectmen's office prior to January 31 of any calendar year.

CLOSED AREAS: shellfish shall not be removed from any area closed by the Division of Marine Fisheries. Written permission shall be made available for inspection upon demand by any police officer, constable, or any other duly authorized officer or agent of the Board of Selectmen.

Areas within the rotation system shall be closed from time to time to allow for propagation. Rotation areas will be clearly marked and information on closed areas may be obtained by contacting the Shellfish Constable or the Selectmen's office.

DESIGNATED AREAS: Limits one and half (1 1/2) bushels, of which one (1) bushel may be littleneck. All areas outside the rotation system, with the exception of Little Bay will remain the three (3) bushel limit. Persons shellfishing commercially within the rotation areas will not be allowed to take their limit in these areas and then proceed to fish outside the rotation area for the remainder of the three (3) bushel limit. The rule would act in reverse, whereas a person shellfishing commercially will not be allowed to take part of their limit outside the rotation areas and then proceed to complete the three (3) bushel limit from within a rotation area. (see fines)

DRY DIGGING: The dry digging of shellfish is prohibited between and including December 8th to March 31.

EAST COVE: The commercial harvest of shellfish from East Cove is prohibited MGL. Chapter 130 Section 52.

EELS/SEAWORMS: all traps shall be identified with a Styrofoam buoy marked with the colors assigned at time of license issuance, and shall have the permit number clearly displayed on the buoy. Wooden buoys or plastic bottles are prohibited. Traps shall not be set in any established navigable channel. Eels less than six (6) inches shall not be taken. Holders of a commercial eel permit shall be required to submit a state catch report indicating the number of pounds harvested during the previous twelve (12) months.

EXHIBIT FOR INSPECTION: all persons taking or carrying away or having in their possession, shellfish of any kind, in boat or container, shall exhibit such shellfish for inspection upon demand of any Shellfish Constable, Natural Resources Officer, Police Officer, or any other duly authorized officer or agent of the Board of Selectmen.

FINES:

- a) 1st offense: in (Posted Closed area) \$200.00 and or suspension of license.
- b) 1st offense: violation of any written shellfish regulation \$50.00 and or suspension of license for thirty (30) days
- c) 2nd offense: violation of any written shellfish regulation \$100.00 and or suspension of license for sixty (60) days
- d) 3rd offense: violation of any written shellfish regulation \$150.00 and or suspension of license for ninety (90) days
- e) In the event of a fourth offense, or a license holder shows total disregard for these rules and regulations, The Board of Selectmen may revoke and cancel the license or permit for a period of time not to exceed two (2) years.

LICENSE DISPLAY: Licenses must be in the possession of the license holders and in plain view on outer clothing or posted on boat or drivers' flag, in visible manner while engaged in shellfishing.

LICENSE/PERMIT RESTRICTIONS: no person holding a commercial license shall be granted a recreational permit and no person holding a recreational permit shall be granted a commercial license.

NON-TRANSFERABLE: permits are not transferable and may be suspended or revoked by the Board of Selectmen for any violation of the rules and regulations, MGL, Chapter 130, or amendments thereto and subject to rules and regulations of the Town of Fairhaven.

NORTH COVE: North Cove will now be split with the Western side restricted for exclusive use of recreational permit holder only. Commercial shellfishing on this side of cove is prohibited! Commercial Shellfishermen may use the Eastern part of North Cove, buoys set into the middle of the cove will set line, along with a sign set on marsh.

ROUND COVE: Round Cove will now be split into two areas. The dividing line between the two areas is a line drawn from the most southernmost tip of Bella Vista Island over to Cherry Stone Road. Commercial Shellfishing on the North side of this line is Prohibited. Commercial Shellfishermen may use the area from Cherry Stone Road to Bluepoint Road.

SCUBA DIVING: the taking of shellfish by use of scuba and snorkel equipment shall be limited to the following conditions: shellfish permits or license shall be displayed on a standard diver's flag in a visible manner. Shellfish may be harvested by hand only, and the use of any suction and or air tank device, for the purposes of disrupting the sea bottom to expose shellfish shall be prohibited. Divers flags shall be displayed on a boat or surface float, and shall extend a minimum distance of three (3) feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed divers flag, while at or near the surface of the water.

SEED: all seed shellfish shall be broadcast back onto the area in which they were taken, all seed shellfish above the water line shall be covered before leaving an area and all holes filled.

SHELLFISH GAUGES: Gauges for quahog, clam, and oyster measurements shall be used at all times when engaged in shellfishing.

SHELLFISH SIZE LIMITS: quahogs must have one (1) inch hinge measured by gauge. Clams shall not be taken when they are less than two (2) inches in the longest diameter. Oysters shall not be taken when they are less than three (3) inches in diameter. Scallops shall not be taken unless that have a well defined annual growth ring. The taking or possession of seed shellfish is prohibited.

SHOVEL/SPADING FORK: the use of a shovel or spading fork for the harvesting of shellfish is prohibited.

11. Any Rule or Regulation set forth, may change at any time for Resource Management purposes, with the approval of the Board of Selectmen in the Town of Fairhaven and the Approval of the Director of Massachusetts Division of Marine Fisheries.

Shellfish Area Maps

The following shellfish area maps are for illustrative purposes. To view the color versions of the maps, please go to the Harbormaster's Web Page on the Town of Fairhaven's Web Site:

www.fairhaven-ma.gov

